

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 LEROY JONES,

4 Plaintiff

Case No. 2:17-cv-03079-GMN-GWF

ORDER

5 v.

6 ROBERT BANNISTER et al.,

7 Defendants
8

9 This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by
10 a state prisoner. On October 25, 2018, the Court issued an order dismissing the
11 complaint with leave to amend and directed Plaintiff to file an amended complaint within
12 30 days. (ECF No. 6 at 6-7). The 30-day period has now expired, and Plaintiff has not
13 filed an amended complaint or otherwise responded to the Court's order.

14 District courts have the inherent power to control their dockets and "[i]n the
15 exercise of that power, they may impose sanctions including, where appropriate . . .
16 dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831
17 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure
18 to prosecute an action, failure to obey a court order, or failure to comply with local rules.
19 See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance
20 with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal
21 for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856
22 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring
23 *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833
24 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson*
25 *v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and
26 failure to comply with local rules).

27 In determining whether to dismiss an action for lack of prosecution, failure to obey
28 a court order, or failure to comply with local rules, the court must consider several factors:

1 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
2 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
3 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
4 *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130;
5 *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

6 In the instant case, the Court finds that the first two factors, the public's interest in
7 expeditiously resolving this litigation and the Court's interest in managing the docket,
8 weigh in favor of dismissal. The third factor, risk of prejudice to Defendants, also weighs
9 in favor of dismissal, since a presumption of injury arises from the occurrence of
10 unreasonable delay in filing a pleading ordered by the court or prosecuting an action. See
11 *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public policy
12 favoring disposition of cases on their merits – is greatly outweighed by the factors in favor
13 of dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
14 the court's order will result in dismissal satisfies the "consideration of alternatives"
15 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779
16 F.2d at 1424. The Court's order requiring Plaintiff to file an amended complaint within 30
17 days expressly stated: "IT IS FURTHER ORDERED that if Plaintiff fails to file an amended
18 complaint curing the deficiencies outlined in this order, this action shall be dismissed with
19 prejudice for failure to state a claim." (ECF No. 6 at 7). Thus, Plaintiff had adequate
20 warning that dismissal would result from his noncompliance with the Court's order to file
21 an amended complaint within 30 days.

22 It is therefore ordered that this action is dismissed with prejudice based on
23 Plaintiff's failure to file an amended complaint in compliance with this Court's October 25,
24 2018, order and for failure to state a claim.


25 It is further ordered that the motion to proceed *in forma pauperis* (ECF No. 4) is
26 denied as moot.

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1 It is further ordered that the Clerk of Court shall enter judgment accordingly.

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3 DATED THIS 6 day of December 2018.

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6 Gloria M. Navarro, Chief Judge
United States District Court